

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:06-CR-41-BO-1

SHERMAN WAYNE HARRELL,)
 Petitioner,)
)
v.)
)
UNITED STATES OF AMERICA,)
 Respondent.)

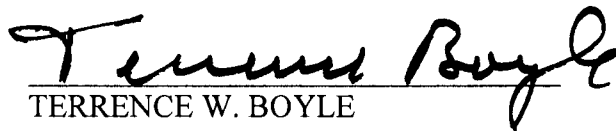
ORDER

This cause comes before the Court on the government's motion to recharacterize petitioner's case or controversy under contract clause motion. [DE 66]. The relief which petitioner seeks is that which would result from a successful motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255—to wit, petitioner “prays the court will vacate the sentence and remand for re-sentencing.” [DE 60].

Thus, the Court hereby NOTIFIES petitioner of its intent to construe his motion as a motion pursuant to 28 U.S.C. § 2255. *Castro v. United States*, 540 U.S. 375, 377 (2003). The Court further WARNS petitioner of the effects of filing a motion pursuant to § 2255, including the restrictions on filing second or successive § 2255 motions, and advises him as to the requirements of § 2255. If petitioner does not wish his motion to be construed as a motion pursuant to 28 U.S.C. § 2255, he must so notify the Court and withdraw or sufficiently amend his motion within forty-five (45) days of the date of entry of this order.

The government's motion is hereby GRANTED IN PART AND DENIED IN PART, as the Court is not currently ruling on the timeliness of petitioner's motion. [DE 66].

SO ORDERED, this 17 day of May, 2016.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE